



**City of Seattle**  
Edward B. Murray, Mayor

**Seattle Department of Construction and Inspections**  
Nathan Torgelson, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

**Application Number:** 3020154  
**Applicant Name:** Jason Kintzer  
**Address of Proposal:** 2509 NE 70th Street

**SUMMARY OF PROPOSAL**

Land Use Application to allow a new two-story, single family dwelling unit with attached garage.

The following approval is required:

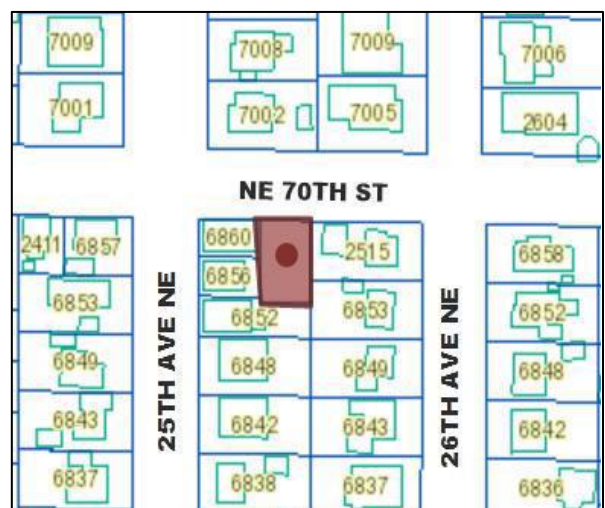
**Special Exception:** to allow development of a qualified lot less than 3,200 sq. ft. in area in a Single Family zone (SMC 23.44.010.B.3).

**Variance:** to allow a portion of a single family to extend 3 ft. above the height limit. (SMC 23.44.012.A.3).

**Variance:** to allow a portion of a structure to extend 7 ft. into the required front yard. (SMC 23.44.014.A.1).

**Site and Vicinity**

**Site Zoning:** Single Family 5000 (SF 5000)  
**Nearby Zones:** SF 5000 (North)  
SF 5000 (South)  
SF 5000 (East)  
SF 5000 (West)  
**Existing Use:** Vacant  
**Lot Area:** 3,150 square feet (sq. ft.)



Site Characteristics: The subject property is located on the south side of NE 70<sup>th</sup> St between 25<sup>th</sup> Ave NE and 26<sup>th</sup> Ave NE and abuts five single family residential lots to the south, west, and east. The site consists of one relatively flat, vacant parcel with some mature vegetation.

The neighborhood character is comprised almost entirely of single family residential structures, the majority of which are oriented towards the north-south running streets. The two abutting parcels to the west are relatively small, both less than 2,000 square feet, each containing a single family structure with minimal setbacks. The two abutting parcels to the east are more typical single family residential lots, each approximately 5,000 square, with more typical setbacks.

Environmentally Critical Areas: The entire site is mapped as an ECA Category 2 Peat Settlement Prone Area.

Project Description: The applicant proposes to build a two-story single family residential structure with an attached garage on an existing 3,150 sq. ft. lot.

In order to allow development of a qualified lot less than 3,200 sq. ft. in area in a Single Family zones, a Special Exception is required per SMC 23.44.010.B.3, as discussed in more detailed below.

The applicant has also requested the following variances:

1. Variance to allow a portion of a single family to extend 3' above the 18' height limit (SMC 23.44.012.A.3); and
2. Variance to allow a portion of a structure to extend 7' into the required 20' front yard setback (SMC 23.44.014.A.1).

Public Comment: The Notice of Application comment period ended on February 3, 2016. Several public comments were received regarding drainage and runoff, concerns with height, setbacks, and neighborhood compatibility, lot size and grade calculations, support for provision of housing and density, and concerns with impacts to light.

## **ANALYSIS – SPECIAL EXCEPTION**

The Land Use Code provides a Special Exception review process for lots less than 3,200 square feet in area. A Special Exception Type II review as provided for in Section 23.76.004 is required for separate development of any lot with an area less than 3,200 square feet that qualifies for any lot area exception in subsection 23.44.010.B.1. The special exception application shall be subject to the following provisions:

- a. The depth of any structure on the lot shall not exceed two times the width of the lot. If a side yard easement is provided according to subsection 23.44.014.D.3, the portion of the easement within 5 feet of the structure on the lot qualifying under this provision may be treated as a part of that lot solely for the purpose of determining the lot width for purposes of complying with this subsection 23.44.010.B.2.c.*

The depth of the proposed structure on the lot is 42'6" and does not exceed 90' (two times the width of the lot) therefore this criterion has been met.

- b. Windows in a proposed principal structure facing an existing abutting lot that is developed with a house shall be placed in manner that takes into consideration the interior privacy in abutting houses, provided that this provision shall not prohibit placing a window in any room of the proposed house.*

The applicant provided a window study and privacy analysis for the adjacent properties located at 6860 25<sup>th</sup> Ave NE and 6856 25<sup>th</sup> Ave NE. The abutting properties to the east of the site, 2515 NE 70th St and 6853 26th Ave NE, are separated from the site by detached garages, mature vegetation, and rear yards typical of single family development. The abutting property to the south of the site located at 6852 25<sup>th</sup> Ave NE did not have any overlapping windows and therefore a window study was not relevant.

Based on review of the window study and privacy analysis, it has been determined that the windows in the proposed structure have been placed in a manner that takes into consideration the interior privacy in abutting houses and therefore this criterion has been met.

- c. In approving a special exception review, additional conditions may be imposed that address window placement to address interior privacy of existing abutting houses.*

This proposal is not expected to have a significant impact on the interior privacy of existing abutting houses and therefore no additional conditions are warranted.

### **DECISION – SPECIAL EXCEPTION**

The proposed Special Exception is **GRANTED**.

### **ANALYSIS - VARIANCE**

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

The subject property is unusual in several regards including size, orientation, and location in an ECA Category 2 Peat Settlement Prone Area.

Because the site is located in an ECA Category 2 Peat Settlement Prone Area, a 3' crawl space that would typically be located below grade is proposed above grade to minimize excavation in the ECA Peat Settlement Prone Area as recommended in the geotechnical report provided. The 3' additional height requested by the applicant would not result in increased habitable volume of the structure. If not for the location in a Peat Settlement zone, the 3' crawl space would be located below ground and a variance for 3' additional feet of building height would not be needed to construct a typical 2-story home.

Because the parcel was originally platted to provide necessary City utility functions, the property is unusual in its size, shape, and north-south orientation toward NE 70<sup>th</sup> St. It is generally shallower and smaller than the typical single family parcels in the area, measuring approximately 45' wide by 70' deep. Because the parcel is relatively shallow, measuring 70' deep, strict application of the Land Use Code setbacks would result in a relatively shallow building area, measuring 36' deep.

The subject parcel is the only property on the blockface with a front yard orientation towards NE 70<sup>th</sup> St. The houses adjacent to the subject property have side yard setbacks from NE 70<sup>th</sup> St. measuring 7'-1" (property to the east) and a staggered side setback ranging from 0' to 2' (property to the west). Within the larger vicinity, the majority of parcels are oriented east-west, towards the north-south running streets, with only a small number of parcels oriented toward NE 70<sup>th</sup> St. Because of this, the majority of parcels abutting NE 70<sup>th</sup> St. have side yards fronting NE 70<sup>th</sup> St., many of which are less than 5'.

The unusual conditions applicable to the subject property including size, orientation, and location in an ECA Category 2 Peat Settlement Prone Area, were not created by the owner or applicant. Strict application of the Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

**2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Per SMC 23.44.012.A.3, the maximum permitted height limit is 18', with a 5' allowance for pitched roofs per 23.44.012.B. The applicant is proposing to extend 3' above the height limit resulting in a 21' building height, with an additional 5' allowance for pitched roof to accommodate a 3' above grade crawl space in order to minimize excavation in the ECA Peat Settlement Prone Area.

Without the variance, a two-story structure would still be possible but due to the height and roof pitch allowed outright by code, more than 50% of the second story floor area would have a ceiling height below 8' with a majority below 6' and therefore would not be a functionally habitable space.

The additional 3' of requested height is the minimum necessary afford relief and allow the applicant to have a typical 2 story home similar to what is allowed on properties in the vicinity.

As discussed above, the subject parcel is the only parcel on the blockface with a front yard oriented towards NE 70<sup>th</sup> St, with only five other parcels within five blocks of the site having a similar front yard orientation towards NE 70<sup>th</sup> St. The average of the front yard setbacks for the existing lots in the vicinity with a similar orientation is 11'-7".

The requested front yard setback variance is consistent with the front yard setbacks of other properties in the vicinity with similar conditions and does not go beyond the minimum necessary to afford relief.

**3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The allowed height for a typical lot in the SF-5000 zone is 30'. Because the subject property is less than 3,200 sq. ft., the height is limited to 18'. As previously discussed, the applicant requests 3' of additional height to accommodate a 3' above grade crawl space due to the location in an ECA. The variance for 3' of additional height would result in a two-story house similar to what

is permitted in the zone and less than what is allowed on full size lots in the vicinity. The proposed two-story home would be consistent with the existing and allowed development pattern and would not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.

As discussed above, the majority of homes in the vicinity adjacent to NE 70<sup>th</sup> St. are oriented east-west towards the north-south streets resulting in side yards abutting the NE 70<sup>th</sup> St. right-of-way. Applying the standard 20' front yard setback to the site would result in a deviation from the existing setback pattern along NE 70<sup>th</sup> St., creating an unusual streetscape condition with the proposed house setback significantly more than the adjacent properties.

Granting of the variance front yard setback variance will be consistent with the existing development pattern and will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

**4.     *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;***

As previously discussed, because of the subject property's location in an ECA Category 2 Peat Settlement Prone Area, the 3' crawl space that would typically be located below grade is proposed above grade. Without the variance, a two-story structure would still be possible but would result in more than 50% of the second story floor area with a ceiling height below 8' with a majority below 6' and therefore not functionally habitable space, causing undue hardship and practical difficulties.

Because of the orientation of the lot and relationship to adjacent side yards, as well as the relatively narrow lot depth, strict application of the front yard setback requirements would result in a relatively shallow buildable area and an inconsistent and undesirable streetscape condition.

**5.     *The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.***

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulation and procedure for the use of land that conform to the City's land use policies. It is the responsibility of the City to preserve and protect areas that are currently in predominantly single-family residential use. The proposed height and setback are in character with the surrounding development and preserve the existing neighborhood character. No adverse effects on the adjacent properties in the area are anticipated and the public interest will not suffer as a result of the proposed yard variances.

The additional height and setback is consistent with the streetscape character along NE 70<sup>th</sup> St. and will not cause adverse impacts to the character of the existing neighborhood. Other nearby properties along NE 70<sup>th</sup> St. have similar conditions.

### **DECISION – VARIANCE**

The variance to allow a portion of a single family to extend above the height limit is **GRANTED**.

The variance to allow a portion of a structure to extend into the required front yard setback is **GRANTED**.

### **CONDITIONS OF APPROVAL**

None required.

BreAnne McConkie, Land Use Planner \_\_\_\_\_ Date: February 29, 2016  
Seattle Department of Construction and Inspections

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## **IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

### Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at [prc@seattle.gov](mailto:prc@seattle.gov) or to our message line at 206-684-8467.